



Reprinted
January 26, 2010

HOUSE BILL No. 1073

DIGEST OF HB 1073 (Updated January 25, 2010 7:51 pm - DI 75)

Citations Affected: IC 32-31.

Synopsis: Termination of residential leases. Provides that a tenant leasing a dwelling may terminate a lease agreement if the tenant is the victim of certain crimes committed in the tenant's unit. Provides that the lease may be terminated through procedures established under the statute providing for court issuance of emergency possessory orders for residential rental units. Establishes the criteria for the court to consider for termination of the tenant's lease agreement.

Effective: July 1, 2010.

Fry, Van Haaften, Walorski, Neese

January 5, 2010, read first time and referred to Committee on Public Policy.
January 20, 2010, amended, reported — Do Pass.
January 25, 2010, read second time, amended, ordered engrossed.

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HB 1073—LS 6205/DI 75+



Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1073

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-31-6-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following may
3 file a petition for an emergency possessory order under this chapter:

4 (1) A tenant, if **either of the following apply**:

5 (A) The landlord has violated IC 32-31-5-6.

6 (B) **Any of the following offenses have been committed in**
7 **the dwelling unit of the tenant:**

8 (i) **Burglary under IC 35-43-2-1.**

9 (ii) **Residential entry under IC 35-43-2-1.5.**

10 (iii) **Criminal trespass under IC 35-43-2-2(a)(1),**
11 **IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).**

12 (2) A landlord, if the tenant has committed or threatens to commit
13 waste to the rental unit.

14 SECTION 2. IC 32-31-6-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) **This section**
16 **applies if:**

17 (1) **a tenant seeks relief under section 3(1)(A) of this chapter;**

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1 **or**
2 **(2) the landlord seeks relief under section 3(2) of this chapter.**
3 **(b) A petition for an order under this chapter must satisfy the**
4 **following:**
5 (1) Include an allegation specifying **the following:**
6 (A) The violation, act, or omission caused or threatened by:
7 (i) a landlord; or
8 (ii) a tenant; ~~and~~
9 (B) The nature of the specific immediate and serious:
10 (i) injury;
11 (ii) loss; or
12 (iii) damage;
13 that the landlord or tenant has suffered or will suffer if the
14 violation, act, or omission is not enjoined. ~~and~~
15 (2) Be sworn to by the petitioner.
16 SECTION 3. IC 32-31-6-4.5 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2010]: **Sec. 4.5. (a) This section applies if a tenant seeks relief**
19 **under section 3(1)(B) of this chapter.**
20 **(b) A petition for an order under this chapter must satisfy the**
21 **following:**
22 (1) Include an allegation specifying the following:
23 (A) The specific offense described in section 3(1)(B) of this
24 chapter that was committed in the dwelling unit.
25 (B) The nature of the specific immediate and serious:
26 (i) injury;
27 (ii) loss; or
28 (iii) damage;
29 that the tenant has suffered or will suffer if the rental
30 agreement is not terminated.
31 (2) Be sworn to by the petitioner.
32 SECTION 4. IC 32-31-6-6 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) At the emergency
34 hearing, if the court finds **probable cause to believe either of the**
35 **following, the court shall issue an emergency order under**
36 **subsection (b) or (c):**
37 (1) ~~probable cause to believe that~~ The landlord has violated or
38 threatened to violate IC 32-31-5-6, and ~~(2) that~~ the tenant will
39 suffer immediate and serious injury, loss, or damage.
40 (2) **Both of the following:**
41 (A) **The tenant:**
42 (i) **is a victim of an offense described in section 3(1)(B) of**

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1 **this chapter that was committed in the dwelling unit; and**
 2 **(ii) will suffer, or has suffered, immediate and serious**
 3 **bodily injury or harm.**
 4 **(B) Termination of the rental agreement will prevent**
 5 **future serious bodily injury or harm to the tenant.**
 6 ~~the court shall issue an emergency order under subsection (b).~~
 7 (b) If the court makes a finding under subsection ~~(a)~~; **(a)(1)**, the
 8 court shall order the landlord to do either or both of the following:
 9 (1) Return possession of the dwelling unit to the tenant if the
 10 tenant has been deprived of possession of the dwelling unit.
 11 (2) Refrain from violating IC 32-31-5-6.
 12 **(c) If the court makes a finding under subsection (a)(2), the**
 13 **court shall do the following:**
 14 **(1) Order the tenant to return possession of the dwelling unit**
 15 **to the landlord.**
 16 **(2) Terminate the rental agreement.**
 17 **(d) If the court acts under subsection (c), the following apply:**
 18 **(1) The termination of the rental agreement is effective thirty**
 19 **(30) days after the date on which the order under subsection**
 20 **(c) is issued.**
 21 **(2) The tenant is liable under the rental agreement for all rent**
 22 **and all other amounts that are due and that become due to the**
 23 **landlord until the termination date.**
 24 **(3) The tenant may return possession of the dwelling unit to**
 25 **the landlord on any date not later than the termination date.**
 26 **(4) The tenant is not liable to the landlord for early**
 27 **termination fees or liquidated damages that might otherwise**
 28 **be due to the landlord under the rental agreement for early**
 29 **termination.**
 30 ~~(e)~~ **(e)** The court may make other orders that the court considers just
 31 under the circumstances, including setting a subsequent hearing at the
 32 request of a party to adjudicate related claims between the parties.
 33 SECTION 5. IC 32-31-6-9 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If the court sets a
 35 subsequent hearing under section ~~6(c)~~ **6(e)** or 7(d) of this chapter, the
 36 court may do the following at the subsequent hearing:
 37 (1) Determine damages.
 38 (2) Order return of a tenant's withheld property.
 39 (3) Make other orders the court considers just under the
 40 circumstances.
 41 SECTION 6. IC 32-31-6-10 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. The adjudication of

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1 an emergency possessory claim under section 6(b), **6(c)**, or 7(c) of this
2 chapter does not bar a subsequent claim a party may have against the
3 other party arising out of the landlord and tenant relationship unless
4 that claim has been adjudicated under section 9 of this chapter.

5 SECTION 7. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"
8 refers to any of the following:

- 9 (1) A crime involving domestic or family violence (as defined in
10 IC 35-41-1-6.5).
- 11 (2) A sex offense under IC 35-42-4.
- 12 (3) Stalking under IC 35-45-10.
- 13 **(4) Any of the following offenses if the offense is committed at**
14 **the dwelling of the victim:**
 - 15 **(A) Burglary under IC 35-43-2-1.**
 - 16 **(B) Residential entry under IC 35-43-2-1.5.**
 - 17 **(C) Criminal trespass under IC 35-43-2-2(a)(1),**
18 **IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred House Bill 1073, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

- Page 1, line 7, reset in roman "A sex".
- Page 1, line 7, delete "An".
- Page 1, line 7, delete "against the person".
- Page 1, line 7, reset in roman "IC 35-42-4.".
- Page 1, delete line 8.
- Page 1, line 15, delete "IC 35-43-2-2(a)(2)".
- Page 2, line 15, delete "certified".
- Page 2, line 15, delete "of a" and insert "**of an official**".
- Page 2, line 35, delete "certified".
- Page 2, line 35, delete "of a" and insert "**of an official**".

and when so amended that said bill do pass.

(Reference is to HB 1073 as introduced.)

VAN HAAFTEN, Chair

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1073 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 32-31-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following may file a petition for an emergency possessory order under this chapter:

- (1) A tenant, if **either of the following apply**:
 - (A) The landlord has violated IC 32-31-5-6.
 - (B) **Any of the following offenses have been committed in the dwelling unit of the tenant**:
 - (i) **Burglary under IC 35-43-2-1.**
 - (ii) **Residential entry under IC 35-43-2-1.5.**
 - (iii) **Criminal trespass under IC 35-43-2-2(a)(1), IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).**
- (2) A landlord, if the tenant has committed or threatens to commit

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waste to the rental unit.

SECTION 2. IC 32-31-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. **(a) This section applies if:**

- (1) a tenant seeks relief under section 3(1)(A) of this chapter;**
- or**
- (2) the landlord seeks relief under section 3(2) of this chapter.**

(b) A petition for an order under this chapter must satisfy the following:

- (1) Include an allegation specifying the following:**
 - (A) The violation, act, or omission caused or threatened by:**
 - (i) a landlord; or**
 - (ii) a tenant; and**
 - (B) The nature of the specific immediate and serious:**
 - (i) injury;**
 - (ii) loss; or**
 - (iii) damage;**

that the landlord or tenant has suffered or will suffer if the violation, act, or omission is not enjoined. ~~and~~
- (2) Be sworn to by the petitioner.**

SECTION 3. IC 32-31-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) This section applies if a tenant seeks relief under section 3(1)(B) of this chapter.**

(b) A petition for an order under this chapter must satisfy the following:

- (1) Include an allegation specifying the following:**
 - (A) The specific offense described in section 3(1)(B) of this chapter that was committed in the dwelling unit.**
 - (B) The nature of the specific immediate and serious:**
 - (i) injury;**
 - (ii) loss; or**
 - (iii) damage;**

that the tenant has suffered or will suffer if the rental agreement is not terminated.
- (2) Be sworn to by the petitioner.**

SECTION 4. IC 32-31-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. **(a) At the emergency hearing, if the court finds probable cause to believe either of the following, the court shall issue an emergency order under subsection (b) or (c):**

- (1) ~~probable cause to believe that~~ The landlord has violated or**

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threatened to violate IC 32-31-5-6, and ~~(2)~~ that the tenant will suffer immediate and serious injury, loss, or damage.

(2) Both of the following:

(A) The tenant:

- (i) is a victim of an offense described in section 3(1)(B) of this chapter that was committed in the dwelling unit; and**
- (ii) will suffer, or has suffered, immediate and serious bodily injury or harm.**

(B) Termination of the rental agreement will prevent future serious bodily injury or harm to the tenant.

the court shall issue an emergency order under subsection (b):

(b) If the court makes a finding under subsection ~~(a)~~; **(a)(1)**, the court shall order the landlord to do either or both of the following:

- (1) Return possession of the dwelling unit to the tenant if the tenant has been deprived of possession of the dwelling unit.
- (2) Refrain from violating IC 32-31-5-6.

(c) If the court makes a finding under subsection (a)(2), the court shall do the following:

- (1) Order the tenant to return possession of the dwelling unit to the landlord.**
- (2) Terminate the rental agreement.**

(d) If the court acts under subsection (c), the following apply:

- (1) The termination of the rental agreement is effective thirty (30) days after the date on which the order under subsection (c) is issued.**
- (2) The tenant is liable under the rental agreement for all rent and all other amounts that are due and that become due to the landlord until the termination date.**
- (3) The tenant may return possession of the dwelling unit to the landlord on any date not later than the termination date.**
- (4) The tenant is not liable to the landlord for early termination fees or liquidated damages that might otherwise be due to the landlord under the rental agreement for early termination.**

~~(e)~~ **(e)** The court may make other orders that the court considers just under the circumstances, including setting a subsequent hearing at the request of a party to adjudicate related claims between the parties.

SECTION 5. IC 32-31-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If the court sets a subsequent hearing under section ~~6(c)~~ **6(e)** or 7(d) of this chapter, the court may do the following at the subsequent hearing:

- (1) Determine damages.

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(2) Order return of a tenant's withheld property.

(3) Make other orders the court considers just under the circumstances.

SECTION 6. IC 32-31-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. The adjudication of an emergency possessory claim under section 6(b), **6(c)**, or 7(c) of this chapter does not bar a subsequent claim a party may have against the other party arising out of the landlord and tenant relationship unless that claim has been adjudicated under section 9 of this chapter."

Page 1, delete lines 15 through 17.

Delete pages 2 through 3.

Renumber all SECTIONS consecutively.

(Reference is to HB 1073 as printed January 21, 2010.)

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